IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8197 of 2005

For Approval and Signature:

HON'BLE MR.JUSTICE SHARAD D.DAVE

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

PRAMODKUMAR SUKHNANDAN JAIN - Petitioner(s)

Versus

STATE OF GUAJRAT & 3 - Respondent(s)

==========

Appearance :

MR HR PRAJAPATI for Petitioner No(s).: 1.
Mr.P.D.Bhate, AGP for Respondent No(s).: 1,3.
RULE SERVED for Respondent No(s).: 2.
MR MA SHAIKH for Respondent No(s).: 4.
==========

CORAM :HON'BLE MR.JUSTICE SHARAD D.DAVE

Date : 11/07/2005

ORAL JUDGMENT

1. By filing this petition, the petitioner detenu has challenged the detention order dated 21.04.2005 passed by the District Magistrate, Ahmedabad in exercise of the powers conferred upon

her under sub-section (2) of Section 3 of the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (“the Act” for short), as, the District Magistrate, Ahmedabad acting under the Act arrived at the subjective satisfaction that it was necessary to prevent the detenu from acting in any manner prejudicial to the maintenance of supplies of essential commodities like (petroleum products), kerosene which is essential to the community.

2. Along with the detention order, the detenu was also served with the grounds of detention of the same date.

3. Heard the learned advocate appearing for the petitioner Mr.H.R.Prajapati, learned AGP Mr.Bhate for respondent nos. 1 to 3 and Mr.M.A.Shaikh for respondent no.4. Affidavit-in-reply filed on behalf of respondent no.1 and 2 and counter affidavit on behalf of the Union of India were also taken into consideration.

4. Learned advocate appearing on behalf of the petitioner detenu raised manifold contentions. Relying upon the decision of this Court reported in 2001 (2) GLH 722, Mr.Prajapati has submitted that the State Government has released the co-detenu Mr.Pradipkumar Nandkishor Jain on the basis of the opinion of the Advisory Board.

5. On the other hand, learned advocates appearing for the respondents do not dispute that the State Government has released the co-detenu Mr.Pradipkumar Nandkishor Jain on the basis of the opinion of the Advisory Board.

6. Heard the learned advocates for the parties.

7. In view of the statement made by the learned advocates appearing for the respondents as well as the fact that the order passed by the State Government releasing the co-detenu as aforesaid is not withdrawn by itself, there is no ground or reason for the State Government to act arbitrarily.

8. Considering the judgment referred to above and in the facts and circumstances, the petition deserves to be allowed.

9. In view of what is stated above, the petition is allowed. The order of detention dated 21.04.2005 is quashed and set aside. The detenu Pramodkumar Sukhnandan Jain is ordered to be set at liberty forthwith if he is not required in connection with any other case. Rule is made absolute accordingly. Direct service is permitted. Writ is to be sent to Junagadh jail.

(SHARAD D DAVE, J)

pathan